# Customs Bulletin

Regulations, Rulings, Decisions, and Notices concerning Customs and related matters


# and Decisions

of the United States Court of Customs and Patent Appeals and the United States Court of International Trade

Vol. 16 | MAY 19, 1982 | No. 20

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THE DEPARTMENT OF THE TREASURY
U.S. Customs Service

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# U.S. Customs Service

## *Treasury Decisions*

(T.D. 82-86)

Synopses of drawback decisions

The following are synopses of drawback rates issued January 21, 1982, to March 24, 1982, inclusive, pursuant to sections 22.1 through 22.5, inclusive, Customs Regulations; and approvals under section 22.6, Customs Regulations.

In the synopses below are listed for each drawback rate approved under 19 U.S.C. 1313(b), the name of the company, the specified articles on which drawback is authorized, the merchandise which will be used to manufacture or produce these articles, the factories where the work will be accomplished, the date the statement was signed, the basis for determining payment, the Regional Commissioner to whom the rate was forwarded or issued by, and the date on which it was forwarded or issued.

Dated: April 30, 1982.

File: 214267.

MARILYN G. MORRISON,
*Director,*
*Carriers, Drawback and Bonds Division.*

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(A) Company: Alcan Aluminum Corp.
Articles: Aluminum powder, paste and flake powder.
Merchandise: Unwrought aluminum ingots or sows.
Factories: Berkeley, CA; Joliet, IL; Union, NJ.
Statement signed: October 16, 1981.
Basis of claim: Appearing in.
Rate forwarded to RC of Customs: Boston, March 19, 1982.
Revokes: T.D. 47537-G as amended by TD's 49110-G, 67-137-B and 69-160-B.

(B) Company: Allegheny Ludlum Steel Corp.
Articles: Stainless steel products.
Merchandise: Low and high carbon ferrochrome; low carbon ferrochrome silicon; standard high carbon manganese; silicon manganese.

Factories: Brackenridge, Coatesville and Leechburg, PA; New Castle, IN; and Wallingford, CT.
Statement signed: October 7, 1981.
Basis of claim: Appearing in.
Rate forwarded to RC of Customs: New York, February 17, 1982.
Revokes: T.D. 54946–K as amended by TD's 68–144–W, 71–135–V, 73–226–V and 78–380–U.

(C) Company: American McGaw Co., Div. of American Hospital Supply Corp.
Articles: Nutritional products (amino acid injectible solutions, amino acid fortified beverages, puddings, and mixes).
Merchandise: Amino acids and compounds thereof.
Factories: Irvine, CA; Milledgeville, GA.
Statement signed: February 2, 1982.
Basis of claim: Appearing in.
Rate forwarded to RC of Customs: Los Angeles, February 25, 1982.

(D) Company: B T L of Ohio, Inc.
Articles: Powdered urea-formaldehyde resin; powdered melamine-formaldehyde resin.
Merchandise: Formaldehyde.
Factory: Toledo, OH.
Statement signed: November 24, 1981.
Basis of claim: Used in.
Rate forwarded to RCs of Customs: New York, Baltimore, and Miami, March 4, 1982.

(E) Company: Bandag Inc.
Articles: Molded, cured, rubber tread.
Merchandise: Pre-mixed synthetic rubber.
Factories: Chino, CA; Abilene, TX; Oxford, NC; Griffin, GA; Muscatine, IA.
Statement signed: November 13, 1981.
Basis of claim: Appearing in.
Rate forwarded to RC of Customs: New York, February 8, 1982.

(F) Company: Crucible Inc.
Articles: Alloy and stainless steel products; titanium and titanium alloy products; magnets.
Merchandise: Source materials for chrome, nickel, titanium, vanadium, molybdenum, tungsten, silicon, columbium, manganese, alloy and stainless steels, cobalt, barium.
Factories: Midland, Pittsburgh and Oakdale, PA; East Troy, WI; Carrollton and Bremen, GA; Fullerton, CA; Syracuse, NY; Elizabethtown, KY.
Statement signed: April 22, 1981.
Basis of claim: Appearing in.
Rate forwarded to RC of Customs: New York, March 18, 1982.

Revokes: T.D. 45582-T as amended by TDs 49147-C, 50349-L, 50906-P, 51463-I, 52282-L, 53498-F, 53910-S, 53910-T, 55950-K, 66-136-K, 67-260-W, 69-144-R, 72-98-U; and T.D. 53825-K as amended by TDs 54507-J, and 54642-M.

(G) Company: Cumberland Mills, Inc.
Articles: Carpeting.
Merchandise: Bulk continuous filament polypropylene yarn.
Factories: Chatsworth and Eton, GA.
Statement signed: November 23, 1981.
Basis of claim: Used in.
Rate forwarded to RC of Customs: Miami, March 3, 1982.

(H) Company: E. I. du Pont de Nemours and Co.
Articles: Fungicides.
Merchandise: Refined sugar.
Factory: Belle, WV.
Statement signed: September 1, 1981.
Basis of claim: Used in.
Rate forwarded to RC of Customs: Baltimore, February 23, 1982.
Revokes: T.D. 71-249-A as amended by 75-233-I.

(I) Company: Eastman Kodak Co.
Articles: Eastobrite optical brightner; T-2 polyester polymer pellets; and Kodel 400 series staple fiber.
Merchandise: o-aminophenol.
Factories: Kingsport, TN; Columbia, SC.
Statement signed: November 2, 1981.
Basis of claim: Appearing in.
Rate forwarded to RC of Customs: Baltimore, March 16, 1982.

(J) Company: Ethyl Corp.
Articles: Aluminum alkyls.
Merchandise: Atomized aluminum powder.
Factory: Pasadena, TX.
Statement signed: December 8, 1981.
Basis of claim: Appearing in.
Rate forwarded to RC of Customs: New Orleans, February 8, 1982.

(K) Company: The Goodyear Tire & Rubber Co.
Articles: Poly vinyl chloride resin (PVC).
Merchandise: Vinyl chloride monomer (VCM).
Factory: Niagara Falls, NY.
Statement signed: December 11, 1981.
Basis of claim: Appearing in.
Rate forwarded to RC of Customs: Chicago, February 10, 1982.

(L) Company: Gulf Oil Corp.
Articles: Intermediate grade fuels.

Merchandise: Residual fuel oil.
Factories: Chesapeake, VA; Philadelphia, PA; Marrero, LA.
Statement signed: January 5, 1982.
Basis of claim: Used in.
Rate forwarded to RC of Customs: Houston, February 3, 1982.

(M) Company: H & H Tube & Manufacturing Co.
Articles: Brass and copper lockseam tubing.
Merchandise: Brass and copper sheet, strip and foil.
Factory: Lexington, TN.
Statement signed: October 15, 1981.
Basis of claim: Appearing in.
Rate forwarded to RC of Customs: New York, February 8, 1982.
Revokes: T.D. 81-78-Q.

(N) Company: Hercules Inc.
Articles: Synthetic resins—abalyn, hercolyn abitol, neolyn, cellolyn and pentalyn.
Merchandise: Methyl alcohol (methanol).
Factories: Burlington, NJ; Hopewell, VA; Louisiana, MO.
Statement signed: January 27, 1982.
Basis of claim: Appearing in.
Rate forwarded to RC of Customs: Baltimore, March 8, 1982.

(O) Company: Intersil, Inc.
Articles: Finished transistors and integrated circuits.
Merchandise: Unfinished transistor integrated circuits.
Factories: Cupertino, Santa Clara and Sunnyvale, CA.
Statement signed: September 8, 1981.
Basis of claim: Appearing in.
Rate forwarded to RC of Customs: San Francisco, March 4, 1982.

(P) Company: Eli Lilly and Co.
Articles: Cefaclor monohydrate in bulk; finished product formulations of Ceclor.
Merchandise: D-alpha phenylglycine levorotatory; phenylglycine derivative sodium salt; dimethylformamide; triethylamine; semicarbazide hydrochloride; methyl acetoacetate; penicillin V potassium intermediate; cefaclor intermediate; p-nitrobenzyl bromide; phenoxyacetic acid; potassium acetate solution 80%; potassium acetate tech; potassium bicarbonate; sodium chloroacetate tech.
Factories: Lafayette, Clinton and Indianapolis, IN.
Statement signed: October 20, 1981.
Basis of claim: Used in.
Rate forwarded to RC of Customs: Chicago, January 27, 1982.
Revokes: T.D. 82-2-P.

(Q) Company: NCR Corp.
Articles: In-lobby self-service financial terminal.

Merchandise: Cash dispenser; magnetic card reader/writer; wire harness.
Factory: Dayton, OH.
Statement signed: September 9, 1981.
Basis of claim: Appearing in.
Rate forwarded to RC of Customs: San Francisco, March 19, 1982.

(R) Company: The P. D. George Co.
Articles: Imide and amide imide wire enamels.
Merchandise: N-methyl-2-pyrrolidone.
Factory: St. Louis, MO.
Statement signed: February 17, 1982.
Basis of claim: Used in.
Rate forwarded to RC of Customs: Chicago, March 19, 1982.

(S) Company: Remington Arms Co., Inc.
Articles: Centerfire, shotshell, and rimfire cartridges.
Merchandise: Smokeless powders, various.
Factories: Lonoke, AR; Bridgeport, CT.
Statement signed: December 4, 1981.
Basis of claim: Used in.
Rate forwarded to RC of Customs: Baltimore, March 5, 1982.

(T) Company: Shell Chemical Co., Division of Shell Oil Co.
Articles: Bladex (R) 80% wettable powder herbicide (Bladex 80% W.P.).
Merchandise: Technical Bladex Herbicide.
Factory: El Paso, IL.
Statement signed: December 21, 1981.
Basis of claim: Used in.
Rate forwarded to RC of Customs: Houston, January 21, 1982.

(U) Company: Sterling Drug Inc.
Articles: Hypaque acid, anhydrous; hypaque meglumine; and hypaque sodium.
Merchandise: 3,5 dinitrobenzoic acid.
Factory: Rensselaer, NY.
Statement signed: October 23, 1981.
Basis of claim: Used in, less valuable waste.
Rate forwarded to RC of Customs: New York, March 5, 1982.

(V) Company: Struthers Thermo-Flood Corp.
Articles: Steam generators, complete or modular sections.
Merchandise: Seamless, carbon steel pipe; full port gate valves; globe valves.
Factory: Winfield, KS.
Statement signed: July 6, 1981.
Basis of claim: Appearing in.
Rate forwarded to RC of Customs: San Francisco, March 24, 1982.

(W) Company: Sweetheart Plastics, Inc.
Articles: Disposable dinnerware, cold drink cups, plates, bowls, and containers.
Merchandise: High impact polystyrene.
Factories: Conyers, GA; Somerville and Wilmington, MA; Sparks, NV; Manchester, NH.
Statement signed: January 25, 1982.
Basis of claim: Appearing in.
Rate forwarded to RC of Customs: Boston, February 23, 1982.

(X) Company: Union Carbide Corp.
Articles: Simplex low carbon ferrochrome.
Merchandise: High carbon ferrochrome.
Factory: Marietta, OH.
Statement signed: October 21, 1981.
Basis of claim: Used in.
Rate forwarded to RC of Customs: New York, January 22, 1982.

(Y) Company: Uniroyal, Inc.
Articles: Nylon tire fabrics; nylon belting fabrics; nylon hose yarns; nylon expansion joint fabrics.
Merchandise: Nylon filament yarns, 6 and 6/6.
Factories: Winnsboro, SC; Scottsville, VA; Shelbyville, TN; Hogansville, GA.
Statement signed: January 5, 1982.
Basis of claim: Used in, less valuable waste.
Rate forwarded to RC of Customs: New York, January 29, 1982.

(Z) Company: Witco Chemical Corp.
Articles: Alkyl peroxyester and benzoyl peroxide products.
Merchandise: Benzoyl chloride.
Factories: Richmond, CA; Marshall, TX.
Statement signed: February 16, 1982.
Basis of claim: Used in.
Rate forwarded to RC of Customs: New York, March 9, 1982.

Approval Under Section 22.6, Customs Regulations

(1) Company: Texaco, Inc.
Articles: Motor and aviation gasoline; special naphthas; jet fuel; kerosene; distillate, residual and lubricating oil; paraffin wax; and other petrochemical products.
Merchandise: Crude petroleum; naphtha distillates (including unfinished gasolines); misc. distillates; topped crude; cracking stocks; fuel, gas and slop oils; asphalt residuums.
Factories: Various as listed in manufacturer's statement.
Statement signed: January 6, 1982.
Basis of claim: Used in.
Rate forwarded to RC of Customs: Houston, February 5, 1982.

(T.D. 82-87)

## Reimbursable Services—Excess Cost of Preclearance Operations

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
*Washington, D.C., May 5, 1982.*

Notice is hereby given that pursuant to Section 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning May 16, 1982.

| Installation | Biweekly excess cost |
|---|---|
| Montreal, Canada | $18,286 |
| Toronto, Canada | 31,294 |
| Kindley Field, Bermuda | 6,577 |
| Nassau, Bahama Islands | 18,682 |
| Vancouver, Canada | 14,151 |
| Winnipeg, Canada | 1,722 |
| Freeport, Bahama Islands | 10,390 |
| Calgary, Canada | 8,238 |
| Edmonton, Canada | 5,013 |

JACK T. LACY,
*Comptroller.*

[Published in the Federal Register, May 10, 1982 (47 FR 20061)]

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## 19 CFR Part 6

(T.D. 82-88)

## Private Aircraft Arriving in the United States

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: By an interim regulation published as T.D. 82-52 in the Federal Register on March 24, 1982 (47 FR 12620), section 6.14, Customs Regulations (19 CFR 6.14), was amended to extend the area of entry from which private aircraft arriving in the United States must furnish a notice of intended arrival to Customs. The interim regulation took effect on April 1, 1982. Section 6.14 had previously provided for a notice of intended arrival for private aircraft arriving in the United States via the U.S./Mexican border. The previous regulation further stated that the aircraft required to furnish such notice must land at *one* of the designated airports.

371-924 O - 82 - 2

T.D. 82-52 extended the notice requirement to private aircraft arriving in the United States via the Gulf of Mexico and Atlantic Coasts and further provided that the aircraft required to furnish such notice must land at the *nearest* designated airport to the border or coastline crossing point. The list of designated airports was also expanded. The amendment was necessary because of the severity of the drug abuse problem, the major increase in illegal importations, and the need for immediate action to expand the effectiveness of drug smuggling enforcement.

This document adds the Fort Lauderdale Executive Airport and Industrial Airpark, Fort Lauderdale, Florida, and the St. Lucie County International Airport, Fort Pierce, Florida, to the list of designated airports in section 6.14(g). It has been determined that it is necessary to add these airports to the list in order to retain the current level of service at these airports and to alleviate potential congestion at the other designated airports.

EFFECTIVE DATE: These additions to the list of designated airports are effective on May 6, 1982. The interim amendments to section 6.14 became effective on April 1, 1982.

FOR FURTHER INFORMATION CONTACT: Sidney A. Reyes, Arnold L. Sarasky, or David Austin, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5607).

## FEDERAL REGISTER THESAURUS

On January 22, 1981, the Office of the Federal Register published a final rule (47 FR 7162) which requires agencies to identify major topics and categories of persons affected in their regulations by using standard terms established in the Federal Register Thesaurus of Indexing Terms.

Accordingly, the index terms listed below are applicable to this regulatory project:

19 CFR Part 6
Air Carriers
Air transportation
Aircraft
Airports

## AMENDMENTS TO THE REGULATIONS

### PART 6—AIR COMMERCE REGULATIONS

Section 6.14(g), Customs Regulations (19 CFR 6.14(g)), is amended by inserting the Fort Lauderdale Executive Airport and Industrial Airpark, Fort Lauderdale, Florida, and the St. Lucie County International Airport, Fort Pierce, Florida, in appropriate alphabetical order in the list of designated airports.

(R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 1109, 72 Stat. 7999, as amended (19 U.S.C. 66, 1624, 49 U.S.C. 1509))

WILLIAM VON RAAB,
*Commissioner of Customs.*

Approved: April 21, 1982.
JOHN M. WALKER, JR.,
*Assistant Secretary of the Treasury.*

[Published in the Federal Register, May 6, 1982 (47 FR 19517)]

# U.S. Customs Service

## *Customs Service Decisions*

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
*Washington, D.C., May 5, 1982.*

The following are decisions made by the United States Customs Service where the issues involved are of sufficient interest or importance to warrant publication in the Customs Bulletin.

JOHN P. SIMPSON,
*Director,*
*Office of Regulations and Rulings.*

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(C.S.D. 82-71)

### Drawback: Application of the "Use" Requirement Under the Substitution Drawback Law (19 U.S.C. 1313(b))

Date: October 21, 1981
File: DRA-1-CO:R:CD:D RB
213605

*Issue:* Whether the members of an incorporated agricultural cooperative association may be regarded as partners for purposes of the "use" requirement of the substitution drawback law (19 U.S.C. 1313(b)).

*Facts:* An incorporated agricultural cooperative association (cooperative) is organized and operated by several corporations in order to maximize manufacturing and marketing efficiencies in the production and sale of their processed citrus products.

The cooperative combines and controls the overall manufacturing and marketing functions of its membership. In particular, some of the members' common manufacturing functions directed by the cooperative include establishing manufacturing goals, controlling raw material supplies, maintaining inventory control, controlling packing operations, providing containers and directing quality assurance. Individual members are not at liberty to act or operate independently. All members participate equally in managing the overall manufacturing and marketing functions of the cooperative and they share equitably in the distribution of profits and losses in proportion to their participation in the cooperative. In addition,

they are unable to transfer their ownership interest in the cooperative to a non-member.

*Law and analysis:* For drawback to accrue under 19 U.S.C. 1313(b), among other things, the same legal person must manufacture the exported articles on which drawback is claimed and must use in manufacture both the imported, duty-paid merchandise which is designated as the basis for the claim and the domestic or duty-free merchandise of the same kind and quality which is substituted in production.

In determining the legal relationship of the parties for drawback purposes, we will consider the substance, and not the name, of their arrangement as controlling. Accordingly, based upon the facts set forth in the foregoing section, we conclude that the members of the cooperative function as a single integrated enterprise. They collectively "use" imported and domestic merchandise in their combined manufacturing operations and they share equitably in the economic gains and losses derived therefrom.

Consequently, we regard the members of the cooperative as partners within the context of the "use" requirement of the substitution drawback law. Since a partnership consisting of two or more corporations may be a drawback claimant, the members of the cooperative may properly qualify for drawback on this basis.

*Holding:* Based upon the facts presented in this case, we regard the members of the incorporated agricultural cooperative as partners within the context of the "use" requirement of the substitution drawback law (19 U.S.C. 1313(b)). Since a partnership consisting of two or more corporations may be a drawback claimant, the members of the cooperative may properly qualify for drawback on this basis.

*Effect on other rulings:* None.

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(C.S.D. 82-72)

## Trade Agreements Act: Appraisement Under the TAA of Plywood Imported in Half-Inch Dimensions but Invoiced in Quarter-Inch Dimensions

Date: November 4, 1981
File: CLA-2 CO:R:CV:V
542613 CW
TAA #42

This is in response to your letter of September 9, 1981, in which you request a ruling concerning the appraisement, under section 402, Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (TAA), of certain "doorskin size plywood" from Japan.

You state that there are instances in which the ultimate purchasers in the United States order the subject plywood cut to quarter-inch dimensions, such as 3mm x 24¼ inches x 80¼ inches.

However, since the mill can cut only to half-inch dimensions, the plywood is shipped to the ultimate purchaser in half-inch dimensions, whereupon the purchaser cuts the plywood to the proper size and discards the excess quarter of an inch. Although the plywood is imported in half-inch dimensions, you indicate that the purchaser is invoiced only for the quarter-inch dimensions which were ordered. In your opinion, the transaction value of the plywood should equal the invoice price and that the value of the excess trim should not be dutiable.

As you know, transaction value, the perferred basis of appraisement under the TAA, is defined in section 402(b) as "the price actually paid or payable for the merchandise when sold for exportation to the United States, plus amounts" for the five items specified in section 402(b)(1) when not otherwise included in that price.

We understand from your description of the facts in this case that while the ultimate purchaser originally orders plywood in quarter-inch dimensions, he subsequently agrees to accept from the foreign seller plywood cut to half-inch dimensions for the same price as the plywood which he ordered originally. Under these circumstances, it is clear that even though the purchaser is invoiced for plywood in quarter-inch dimensions, the invoice price actually reflects the agreed-upon price for the merchandise in its condition as imported, which is plywood cut to half-inch dimensions. We, therefore, concur in your opinion that the invoice price is the "price actually paid or payable" and that this price properly represents the transaction value of the imported plywood.

Concerning your request for uniformity of treatment among all Customs districts regarding the appraisement of this merchandise, we suggest that this may be achieved by sending a copy of this letter to every port of entry through which the subject plywood is to be imported into the United States.

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(C.S.D. 82-73)

Vessels: The Transshipment of Frozen Fish From a Malfunctioning Foreign-Flag Vessel to Another Foreign-Flag Vessel for Transportation Out of the United States

Date: November 13, 1981
File: VES-7-03-CO:R:CD:C
105413 LLB

This letter is in regard to your request of November 13, 1981, that we permit the transshipment of a catch of frozen fish from the Japanese-flag vessel (vessel #1), which vessel is currently experiencing a malfunction in its refrigerated hold.

The facts as we understand them are as follows. The (vessel #1), a 160 foot fishing vessel, is currently in harbor at San Diego, California, with 110 metric tons of frozen fish stored aboard. There is

an apparent leak in the refrigeration system which is permitting freon to escape. Freon is necessary to maintain the fish in a frozen condition. In order that the leak be located and repaired, it is necessary that the catch be removed and the compartment defrosted.

You state that there is at this time a second Japanese-flag vessel, the (vessel #2), in Mexican waters. It is your desire that the two vessels be permitted to rendezvous at the port of Los Angles/Long Beach, California, for the purpose of transferring the catch to the second vessel. The second vessel, newly loaded with the frozen fish, would then immediately depart for Japan, and emergency repairs would begin on the first vessel's refrigeration system.

Section 4.96(g) of the Customs Regulations (19 CFR 4.96(g)), provides that when a fishing vessel arrives in the United States in distress, supplies, equipment, or repairs may be secured for the vessel but, with one exception, fish cannot be landed. The exception stated in the regulations provides that upon satisfaction of certain conditions, the district director may allow the vessel to land, transship, or otherwise dispose of its catch. The exception requires a showing to the satisfaction of the district director of Customs that the vessel could not, by exercising due diligence, transport the catch to a foreign port without spoilage.

In a prior decision, we denied permission to land frozen raw fish following a breakdown in the ship's refrigeration unit. In that case, it was intended that the fish be landed and canned domestically. In this case, the fish will depart for Japan aboard a second vessel after it is transferred.

Therefore, if the district director is satisfied in accordance with section 4.96(g) that the vessel cannot transport its catch to a foreign port without spoilage, the catch may be transshipped to another vessel for transportation out of the United States.

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(C.S.D. 82-74)

Vessels: The Applicability of 46 U.S.C. 316(a) and 883 to a Foreign Built Tug Used To Tow/Assist U.S.-Flag Vessels Moving Between U.S. Ports Through the Panama Canal

Date: November 30, 1981
File: VES-5/VES-10-03
CO:R:CD:C 105369 PH

This ruling concerns the applicability of 46 U.S.C. 316(a) and 883 to a foreign-built tug used to assist or tow United States-flag vessels through the Panama Canal when those vessels are moving between United States ports.

*Issues:* 1. Does a foreign-flag tug violate 46 U.S.C. 883 when it is used to assist or tow a United States-flag vessel through the Panama Canal when that vessel is engaged in transporting merchandise in the United States coastwise trade?

2. Does a foreign-built tug violate 46 U.S.C. 316(a) when it is used to tow a United States-flag vessel through the Panama Canal when that vessel is moving between United States ports?

*Facts:* The inquirer requests a ruling that the use in the Panama Canal of a foreign-built tug to assist United States-flag vessels transiting the Canal and transporting merchandise, or moving in ballast, from one place in the United States to another place in the United States would violate the coastwise trade laws, specifically, 46 U.S.C. 316(a) and 883. The tug would assist or tow self-propelled vessels which proceeded to and from the Canal under their own power as well as non-self-propelled vessels which were towed to and from the Canal by another towing vessel. The inquirer states that many of these non-self-propelled vessels would be towed through the entire Canal by the foreign-built tug.

*Law and analysis:* Title 46, United States Code, section 883 (46 U.S.C. 883), provides, in pertinent part, that:

> No merchandise shall be transported * * * between points in the United States * * * embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any vessel other than a vessel built in and documented under the laws of the United States and owned by persons who are citizens of the United States * * *.

In applying section 883, the Customs Service has ruled that for there to be coastwise transportation subject to that provision, there must be a lading of merchandise at one coastwise point and a transportation of the merchandise to another coastwise point where it is unladen. Under the terms of section 883, any part of such transportation is subject to the prohibition in that provision. However, the Customs Service also has ruled that ". . . a towing operation is not such a transportation *in* a vessel as will give rise to a penalty under the first portion of section 883, title 46, nor will a penalty be incurred by the tug under the provisions of section 289 if passengers should be carried on the vessel being towed." (See ruling letter 3-53147, April 27, 1956, copy enclosed.)

Accordingly, under our interpretation of section 883, the proposed uses of a foreign-built tug in the Panama Canal would not be prohibited by that section. However, the inquirer contends, on the basis of *Foster* v. *Davenport,* 63 U.S. (22 How.) 244 (1859), that the proposed use of the tugboat, when assisting or towing a vessel engaged in the coastwise trade, is itself a use in the coastwise trade. The inquirer further contends, citing *The Esther M. Rendle,* 7 F.2d 545 (1925), and *Cornell Steamboat Co.* v. *United States,* 321 U.S. 634 (1944), that the tugboat, by assisting or towing a vessel engaged in transporting merchandise in the coastwise trade subject to section 883, also is engaged in the transportation of that merchandise in the coastwise trade and is subject to the prohibition in section 883.

We disagree with the latter contention. The prohibition in section 883 is applicable to merchandise transported in the coastwise

trade *in* a non-coastwise-qualified vessel. There is no such transportation by the tug in the case under consideration. Neither of the court cases cited by the inquirer to support this contention involved the application of such a statute. Indeed, in *The Dolphin*, 3 F.2d 1 (1925), a companion case to *The Esther M. Rendle* case, and cited therein, the First Circuit Court of Appeals held that a tug towing a barge laden with merchandise subject to forfeiture was not itself subject to forfeiture under a statute pursuant to which merchandise *and the vessel from which the merchandise was unladen* were subject to forfeiture.

The inquirer also contends that the use of a foreign-built tug to tow United States-flag vessels through the Panama Canal when those vessels are moving between points in the United States is a violation of 46 U.S.C. 316(a) whether or not the vessels are transporting merchandise and whether the entire voyage between United States points is under tow, or part is under tow and part self-propelled.

Title 46, United States Code, section 316(a), provides, in pertinent part, that:

> It shall be unlawful for any vessel not wholly owned by a person who is a citizen of the United States [and not properly documented] to tow any vessel other than a vessel of foreign registry, or a vessel in distress, from any port or place in the United States * * * embraced within the coastwise laws of the United States, to any other port or place within the same, either directly or by way of a foreign port or place, or to do any part of such towing, or to tow any such vessel, from point to point within the harbors of such places * * *

It is the position of the Customs Service that section 316(a) does not apply to the towing of a vessel through the Panama Canal when that vessel is not towed from a United States port or place to the Canal and from the Canal to a United States port or place. This is so because the provision in section 316(a) applying its prohibition to "part of such towing" refers to towing between ports or places embraced within the coastwise laws. A vessel which has propelled itself from a United States port to the Canal and will propel itself to a United States port from the Canal is not towed between ports or places embraced within the coastwise laws. (See ruling letter VES–10–03–CO:R:CD:C 105149 DHR, May 13, 1981, copy enclosed.)

The Customs Service has ruled that in the case of a United States-flag vessel being towed between United States points, a foreign tug would be prohibited from towing the United States-flag vessel for any part of the voyage, even if that part were entirely outside United States territorial waters, or entirely within foreign waters. (See ruling letters VES–10–03 CO:R:CD:C 105090 DHR, April 27, 1981; VES–10–03 CO:R:CD:C 105149 DHR, May 13, 1981; VES–10–03 CO:R:CD:C 105174 JM, June 1, 1981; and MA 216.132

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June 15, 1960, copies enclosed. In regard to the last ruling letter, your attention also is directed to a subsequent letter on this subject dated August 12, 1966 (MS 216.312 R), and signed by the Acting Assistant Secretary of the Treasury, copy also enclosed.) Such towing by a foreign-built tug would be a part of towing between United States ports or places as is necessary for section 316(a) to be applicable. Accordingly, we conclude that a foreign-built tug used to tow a United States-flag vessel through the Panama Canal would be in violation of section 316(a) when the United States-flag vessel was towed from one United States port to the Canal and from the Canal to another United States port.

*Holdings:* 1. A foreign-built tug is not in violation of 46 U.S.C. 883 when it is used to assist or tow a United States-flag vessel through the Panama Canal when the United States-flag vessel is engaged in transporting merchandise in the coastwise trade.

2. A foreign-built tug used to tow a United States-flag vessel through the Panama Canal when the United States-flag vessel is moving between United States ports—

a. *Is* in violation of 46 U.S.C. 316(a) if the United States-flag vessel is towed from a United States port to the Canal and from the Canal to another United States port.

b. Is *not* in violation of 46 U.S.C. 316(a) if the United States-flag vessel is not towed from a United States port to the Canal and from the Canal to another United States port.

*Effect on other rulings:* None.

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(C.S.D. 82-75)

Subject: Temporary Importation Bond: Imported Fish Netting and Fishing Nets Admitted Temporarily Free of Duty Under Bond (TIB)

Date: December 23, 1981
File: CON-9-CO:RCD:D
213247 WL

*Issue:* May imported fish netting and fishing nets admitted temporarily free of duty under bond (TIB) and processed into a complete fishing net be exported for purposes of cancelling the TIB bond by being laden on board a foreign flag fishing vessel?

*Facts:* It is intended to import from a foreign country pieces of complete net and bales of net to complete the tuna seine net for a foreign flag fishing vessel. The importer contracts with the owner of the vessel prior to the net being imported into the United States.

Upon arrival of the net in the United States, the pieces of net and bales of net are stitched together. A cork line and chain line of United States origin are added and the complete net is laden on board the foreign flag vessel.

The inquirer submits that upon lading the net aboard the foreign flag vessel the TIB bond should be canceled.

Although not so stated, it is our understanding that the complete net, after lading aboard the foreign flag vessel, will be used for high seas fishing once the vessel departs the United States.

*Law and analysis:* Item 864.05, Tariff Schedules of the United States (TSUS), provides for temporary admission free of duty under bond for articles to be repaired, altered, or processed (including processes which result in articles manufactured or produced in the United States).

We assume that the sale of the net by the importer to the boat owner is for the purpose of exportation. Under the facts presented, the fish netting and fishing nets may be imported under item 864.05, TSUS, for stitching together and the addition of cork line and chain line.

The inquirer submits that the TIB bond should be canceled upon lading of the net aboard the foreign flag vessel.

Section 10.39(a), Customs Regulations (19 CFR 10.39(a)) provides in part that bonds taken pursuant to Schedule 8, Part 5C, TSUS may be canceled in the manner prescribed in section 113.55, Customs Regulations (19 CFR 113.55).

Section 113.55(a), defines exportation as "a severance of goods from this country with the intention of uniting them to the mass of things belonging to some foreign country."

Section 113.55(b)(1) provides that a bond to assure the exportation of merchandise may be canceled:

> Upon the specification of such merchandise on the outward manifest or outward bill of lading, the inspector's certificate of lading, the record of clearance of the vessel or of the departure of the vehicle, and the production of a foreign landing certificate if such certificate is required by the district director.

Fish nets and netting are considered to be vessel equipment (*Otte* v. *United States,* T.D. 36489; T.D. 77-28, amending section 4.15, Customs Regulations). It is suggested that imported vessel supplies and equipment are considered exported by being laden aboard foreign flag vessels. Section 10.64, Customs Regulations (19 CFR 10.64), relating to crediting or cancellation of bonds when supplies and equipment for vessels are withdrawn provides that the warehouse entry bond, or bond identified in section 10.60 (c) or (f), Customs Regulations, may be credited or canceled upon the vessel's departure from the port of lading in a class of trade or business entitling it to exemption from duty and tax under the statute.

Merchandise entered under TIB procedures, unlike imported articles subsequently withdrawn as vessel supplies or equipment, is not in continuous Customs custody and the Bond for Temporary Importation, Customs Forms 7563 or 7563A, is not included in section 10.60 (c) or (f), Customs Regulations.

Regardless of the fact that fish nets and netting are considered to be vessel equipment, if admitted into the United States under TIB procedures, the TIB bond may be canceled only in the manner prescribed in section 113.55, Customs Regulations.

In 1971, the Customs Service was asked whether articles entered under a temporary importation bond must leave the United States on a common carrier to constitute an exportation (file DB 516.5 LO, November 30, 1971).

It was noted that the important point in this regard was whether an exportation necessary to cancel the temporary importation bond has in fact occurred; the method by which it occurs is not nearly as important.

The facts in that case involved the importation of yachts or pleasure boats under item 864.05, TSUS. In one instance a pleasure boat was to be imported and entered under TIB, equipped with diesel engines and electrical components, and would then sail under its own power for a foreign destination. In the second instance, the boat was brought to the United States on board a common carrier to be repaired and exported, also leaving the United States under its own power.

The ruling stated that there was no objection to the pleasure boats leaving under their own power provided that an exportation as defined in footnote 5 to section 25.15 of the Customs Regulations occurred (footnote 5 to section 25.15 is now section 113.55(a), Customs Regulations). That is, there must be an intent to unite the boats with the mass of goods belonging to some foreign country.

The factual situations are similar. While the lading of the completed net aboard the foreign flag vessel is not sufficient, of itself, to constitute an exportation, the complete net will be considered to be exported for TIB purposes and cancellation of the TIB bond upon lading of the finished nets aboard the foreign flag fishing vessel, certification of the lading by the inspector, and the granting of clearance and departure of the vessel. Thereupon the complete net will be exported for TIB purposes and Customs will cancel the TIB bond.

*Holding:* Imported fish netting and fishing nets admitted temporarily free of duty under bond and processed into a complete fishing net will be considered to be exported for TIB purposes and cancellation of the TIB bond upon lading of the finished net aboard the foreign flag vessel, certification of the lading by the inspector, and the granting of clearance and departure of the vessel.

(C.S.D. 82-76)

Pursuant to 19 CFR 24.1(c), Commercial Drafts Subject to Acceptance by the Drawee Are Not Acceptable Payment of Customs Duties

Date: December 24, 1981
File: ENT 1-01 CO:R:E:E
717461 M

This ruling concerns the acceptance for the payment of Customs duties of sight drafts and other such bank drafts which are conditioned upon the acceptance of the drawee.

*Issue:* Are sight drafts and other such bank drafts which are conditioned upon the acceptance of the drawee acceptable for the payment of Customs duties?

*Facts:* A District Director of Customs notes that his district has received a number of bank drafts which either are marked "sight draft" or are conditioned upon approval by the drawee. A "sight draft" is a commercial document which is conditioned upon the acceptance of the drawee. The district director believes that the current Customs Regulations precluded the acceptance by Customs of such drafts for the payment of Customs duties.

*Law and analysis:* Title 19 CFR 24.1(c) provides, in pertinent part, that commercial drafts subject to the acceptance by the drawee shall not be accepted. This section of the Customs Regulations is based on Treasury Decision 44344, dated November 7, 1930, governing acceptance of uncertified checks for payments of duties. This Treasury Decision stated that a draft subject to the acceptance of the drawee is not an uncertified check and should not be accepted in payment of Customs duties.

Therefore, the bank drafts marked "sight draft" and any other bank drafts which are conditioned upon the acceptance of the drawee are not acceptable payment of Customs duties.

*Holding:* Sight drafts and other such bank drafts which are conditioned upon the acceptance of the drawee are not acceptable payment of Custom duties.

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(C.S.D. 82-77)

Vessels: This Ruling Holds That Vessel Equipment Purchased and Used by U.S.-Fishing Vessels on the High Seas Is Subject to Customs Duty and Documentation Requirements Pursuant to 19 U.S.C. 1466

Date: December 28,1981
File: VES-13-18-CO:R:CD:C
105284 JL

This ruling concerns the purchase and use of cod-ends by American-flag vessels.

*Issue:* Whether the operations described below violate any laws administered by the Customs Service.

*Facts:* A U.S.S.R. governmental entity and a U.S. corporation have formed a joint venture which operates off the West Coast of the United States. American-flag fishing vessels deliver their catches of fish to U.S.S.R.-flag processing vessels on the high seas. The technique used to transfer the catches employs a "cod-end", which is essentially a bag-like device at the end of the trawl net in which the trapped fish are held. The cod-ends are released onto the processing vessel when a transfer is made.

The cod-ends, which are of U.S.S.R. origin, are sold to the fishing vessels by the joint venture and are delivered at sea by the processing vessels. When the cod-ends are damaged, repairs are made by the crews of the processing vessels. Practically all of the cod-ends are returned to the processing vessels when worn-out or when the season has ended. Those cod-ends that are brought into U.S. ports on the fishing vessels are said to be "usually nearly worn out." Neither the purchases nor the repairs have been declared and/or entered by the fishing vessels. The processed fish products are not landed in the United States.

The American-flag vessels operate under either a register or an enrollment and license.

*Law and analysis:* 19 U.S.C. 1466, the vessel repair statute, provides for a 50 per centum, ad valorem, duty on foreign repairs to and equipment purchases for American-flag vessels documented to engage in, or intended to engage in, the foreign or coastwise trades.

Fish nets are equipmet of vessels. *Otte* v. *United States,* T.D. 36489. Since cod-ends are parts of fish nets, they are items of equipment for purposes of the vessel repair statute.

Regarding vessel repair duties, a vessel obtaining a permit to touch and trade before departing from the U.S., or required to obtain such permit by virtue of its intent to engage in foreign trade, is deemed to "intend to engage in foreign trade" within the meaning of 19 U.S.C. 1466. See 46 U.S.C. 310, 311, 325. Fishing vessels operating under a register are "documented to engage in foreign trade" within the meaning of section 1466. Under the facts of this case, however, the equipment repairs and lading occur on the high seas, not in a foreign port. Nevertheless, it has been recently held that repairs made to vessels on the high seas are made "in a foreign country" for purposes of the vessel repair statute. *Mount Washington Tanker Company* v. *U.S.,* U.S.C.I.T. No. 73-6-01399, Slip Opinion 80-8 (undated), *Affirmed* U.S.C.C.P.A., Appeal No. 81-10, Nov. 25, 1981. Accordingly, equipment purchases and deliveries (lading) effected on the high seas are made in a foreign country for purposes of the vessel repair statute.

Customs does not require that a vessel clear for the high seas. See section 4.60(e), Customs Regulations. However, section 4.15(a), Customs Regulations, requires that when a fishing vessel departing

from the United States *intends* to stop at a foreign port to lade vessel equipment, whether preordered or not, or to purchase equipment to replace existing equipment, the master must either clear for that port or obtain a "permit to touch and trade." Accordingly, the American-flag fishing vessels at issue are required to either clear (if operating under a register) or obtain a permit to touch and trade (if operating under an enrollment and license) before departing the U.S. on a fishing voyage on which cod-ends will be furnished by processing vessels on the high seas.

C.I.E. 114/49 held that equipment purchased for a vessel in a foreign country but not returned to the U.S. is nevertheless dutiable under section 1466, under the theory that duty accrued under the statute on the date of the purchase. See also, C.I.E. 1067/60. Therefore, the fact that most of the cod-ends are left aboard the processing vessels when the fishing vessels return to the United States does not affect their dutiable status under section 1466.

As to the cod-ends that are returned on the fishing vessels, those that are unladed and severed from the vessel's complement of equipment are subject to entry as merchandise under 19 U.S.C. 1446, which provides for such treatment for any vessel equipment "landed and delivered." And this treatment as imported merchandise and the assessment of duty, if any, is in addition to any duties accruing under section 1466. See C.D. 2060.

*Holdings:* 1. Vessel equipment, whether pre-ordered or contemporaneously purchased, laded aboard an American-flag fishing vessel on the high seas is "purchased in a foreign country" for purposes of the vessel repair statute.

2. Vessel equipment of American-flag fishing vessels which is repaired aboard a vessel on the high seas is "repaired in a foreign country" for purposes of the vessel repair statute.

3. An American-flag fishing vessel operating under an enrollment and license intending to lade equipment on the high seas is required to obtain a permit to touch and trade before departing from a U.S. port.

4. Equipment laded on a vessel on the high seas which is subsequently landed and delivered in the United States is subject to entry as imported merchandise, notwithstanding the fact that that equipment may also be subject to duty under the vessel repair statute.

*Effect on other rulings:* Manual Supplement No. 3138–01 (Nov. 7, 1977) amplified.

(C.S.D. 82-78)

Subject: Vessels: Application of 19 U.S.C. 1466(e) to Certain Movements of a Research Vessel and the U.S. Virgin Islands Are Not Part of the United States for Purposes of 19 U.S.C. 1466(e)

Date: January 26, 1982
File: VES 13-18 CO:R:CD:C
105378 JL

This ruling concerns the application of 19 U.S.C. 1466(e) to certain movements of an oceanographic research vessel.

*Issue:* 1. Would the entry of a vessel into the U.S. Virgin Islands be considered entry into a port of the United States within the meaning of 19 U.S.C. 1466(e)?

2. Will the discharge of passengers from an oceanographic research vessel onto another vessel outside of Puerto Rico interrupt the two-year period specified in 19 U.S.C. 1466(e)?

*Facts:* An American-flag oceanographic research vessel has been operating outside the United States since March, 1981. Its owner asks whether the entry of the vessel into Saint Thomas, Virgin Islands, or the discharge of passengers to another vessel "without formal entry into Puerto Rico" will toll the running of the two-year period specified in 19 U.S.C. 1466(e).

*Law and analysis:* 19 U.S.C. 1466, the vessel repair statute, provides for a 50 per centum, ad valorem, duty on the costs of foreign repairs, parts, and equipment purchases for certain American-flag vessels. Subsection (e) of section 1466 provides for an exemption from duty on such costs incurred after the initial six months of the vessel's foreign voyage when the vessel is a "special purpose" vessel and the entire voyage lasts more than two years.

19 U.S.C. 1401(h) states as follows:

> The term "United States" includes all Territories and possessions of the United States except the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and the Island of Guam.

Since 19 U.S.C. 1401 specifically states that the definitions provided therein apply to subtitle III of Title 19, United States Code, and section 1466(e) is part of subtitle III, then the entry of a vessel into the U.S. Virgin Islands would not be deemed an entry into a port of the United States so as to toll the running of the two-year period.

Regarding the contemplated contact with Puerto Rico, the question arises as to whether the discharge will occur inside or outside the territorial waters.

Customs has consistently ruled that where a vessel comes to rest in United States waters and there is direct or indirect contact with the mainland (e.g.; a smaller boat taking persons ashore), the vessel

is deemed to have arrived in the United States. See T.D. 75-298. Accordingly, if the discharge of passengers from the subject vessel is accomplished inside the territorial waters of Puerto Rico, the vessel will be deemed to have arrived in the United States and, consequently, the running of the period of the vessel's voyage for purposes of 19 U.S.C. 1466(e) will have terminated at that point in time. See also, sections 4.2(b) and 4.6, Customs Regulations; 19 U.S.C. 1433 (requiring report of arrival).

*Holdings:* 1. The U.S. Virgin Islands are not a part of the United States for purposes of 19 U.S.C. 1466(e).

2. The discharge of passengers from a vessel inside the territorial waters of Puerto Rico would constitute an arrival of that vessel in the United States so as to toll the running of the vessel's foreign voyage within the meaning of 19 U.S.C. 1466(e).

*Effect on other rulings:* None.

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(C.S.D. 82-79)

Subject: The Power of Attorney Issued by Importers to a Subsidiary Customhouse Broker Which Has Been Dissolved Is Nontransferable to the Parent Customhouse Broker Corporation

Date: February 3, 1982
File: ENT 1-01 CO:R:E:E
715668 M

This ruling concerns the necessity of obtaining new powers of attorney when a licensed customhouse brokers firm is dissolved and parent customhouse brokers company assumes its business.

*Issue:* When a subsidiary customhouse brokers firm is dissolved and the parent company assumes its business, is it necessary for the parent company to obtain new powers of attorney for the subsidiary's clients?

*Facts:* Several years ago, Corporation A, a licensed customhouse brokers firm in Cleveland and other districts, wholly acquired Corporation B, a licensed customhouse brokers firm for the Savannah and New Orleans District. Since Corporation B continued as an entity after its acquisition, the power of attorney in the name of Corporation B was not changed.

Corporation A has informed us that it intends to phase out Corporation B and use in those two districts the new licenses issued in the name of Corporation A. Corporation A requests a ruling as to whether the powers of attorney in the name of Corporation B may continue with perhaps a consent form distributed to all importers, who had issued a power of attorney to Corporation B, to authorize the addition of Corporation A to the current powers of attorney. Corporation A contends that to require new powers of attorney would be an inconvenience to the importers.

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*Law and analysis:* Section 141.46, Customs Regulations, require that before transacting Customs business in the name of this principal, a customhouse broker is required to obtain a valid power of attorney to do so.

Although Corporation B is wholly owned by Corporation A, each of these corporations are considered legally to be separate entities. When Corporation B is dissolved, its powers of attorney are likewise dissolved. Since Corporation A is a separate legal entity, we are unable to permit the addition of its name to the power of attorney issued by the importers to Corporation B. It is imperative that new powers of attorney forms be filed by the importers in the name of Corporation A.

We distinguish this situation from those instances in which a customhouse brokers firm wishes to change its name. In ORR Ruling EV346.11 McC dated August 11, 1961, we stated that provided a broker's legal status does not change, a mere change in name effects only powers of attorney filed thereafter. Existing powers to that broker remain effective. This difference in treatment from the instant case is due to the fact that the legal entity receiving the power of attorney prior to the name change and the legal entity retaining the power of attorney after the name change are the same.

*Holding:* When a parent customhouse brokers corporation dissolves a subsidiary customhouse brokers corporation, the power of attorney issued by the importers to the subsidiary are not transferable to the parent corporation. The parent corporation must obtain new powers of attorney it its own name from those importers.

However, where a customhouse brokers firm merely changes its name and its legal status is not changed, the powers of attorney issued by importers to that firm prior to its name change remains in effect.

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(C.S.D. 82-80)

Subject: Entry: Inadvertent Filing of an Entry in 1980 Is Not Correctible Under 19 U.S.C. 1520(c)(1) so as To Provide a Basis for Reliquidation at the 1981 Duty Rate

Date: February 5, 1982
File: ENT 1-01 CO:R:E:E
718294 JV

Review of a district director's refusal to reliquidate a consumption entry under the authority of section 520(c)(1), Tariff Act of 1930, as amended.

*Issue:* Where an entry/entry summary was filed with Customs in December 1980, but is dated January 1981, is the inadvertent filing of the entry in 1980 correctible under 520(c)(1) so as to provide a basis for reliquidation at the lower 1981 rate of duty.

*Facts:* The protest involves the liquidation of Detroit Consumption Entry No. 81-703573 covering a shipment of conveyor machines. The entry/entry summary was filed with Customs on December 24, 1980. However, it was dated January 7, 1981. The date of the entry summary was changed in pen-and-ink by Customs on December 24, 1980, to reflect the date it was filed with the district director. Liquidation was effected at the higher 1980 rate of duty.

Protestant argues that the fact it had dated the entry/entry summary January 7, 1981, is evidence of its intention to file the entry in 1981 rather than in 1980; and that its failure to do so constitutes inadvertence within the meaning of section 520(c)(1). It contends that the entry/entry summary should have been rejected by Customs on December 24, 1980, due to improper dating and the entry liquidated on June 7, 1981.

*Law and analysis:* When an entry summary serves as both the entry documentation and entry summary, the "time of entry" is the time the entry summary is filed with the district director in proper form with duties attached, in accordance with section 141.68 (c) of the Customs Regulations. Duty is assessed at the rate in effect at that time.

In our opinion, the submission of the entry papers on December 24, 1980, was evidence of the importer's intention to file them on that date rather than in 1981, absent instructions to the contrary. While it is unfortunate that the entry summary was prematurely filed, we believe that it would place an undue burden on Customs to reject it merely on the basis of an incorrect entry date. The time when the importer filed his entry, rather than the date placed on the entry is relevant in determining the applicable rate of duty. Accordingly, the district director was correct in liquidating the entry at the 1980 rate of duty, the year in which it was filed.

*Holding:* Where an entry/entry summary is filed with Customs in December 1980, but is dated January 1981, the inadvertent filing of the entry in 1980 is not correctible under 520(c)(1) so as to provide a basis for reliquidation at the 1981 rate of duty. Duty is legally assessed at the rate in effect at the time the entry summary is filed with the district director.

# Decisions of the United States Court of Customs and Patent Appeals

(Appeal No. 81-28)

C. ITOH & CO. AMERICA, INC. *v.* THE UNITED STATES

1. CLASSIFICATION—ARTIFICIAL SUEDE AS NONWOVEN FABRIC OF TEXTILE MATERIALS

Appeal from judgment of the Court of International Trade, 1 CIT ——, 520 F. Supp. 273 (1981), holding that artificial suede imported from Japan was properly classified under item 355.25, TSUS, as nonwoven fabric of textile materials, affirmed.

2. STANDARD FOR REVIEWING FINDINGS OF COURT OF INTERNATIONAL TRADE IS CLEARLY ERRONEOUS UNDER 28 U.S.C. 2601(c)

Standard for reviewing factual findings of the Court of International Trade is not whether they are contrary to the weight of the evidence; rather, as provided in 28 U.S.C. 2601(c), findings of fact shall not be set aside unless clearly erroneous.

3. ID.

Finding of the Court of International Trade, that the weight of the testimony of the sole witness offered by appellant was insufficient to substantiate cost figures sought to be proved, was not clearly erroneous.

F. 2d

C. ITOH & CO., AMERICA, INC., APPELLANT *v.* THE UNITED STATES, APPELLEE

No. 81-28

United States Court of Customs and Patent Appeals, April 29, 1982, Appeal from United States Court of International Trade.

[Affirmed.]

*James S. O'Kelly*, of Barnes, Richardson and Colburn, New York, New York, attorney for appellant.

*J. Paul McGrath*, Asst. Atty. General, *David M. Cohen*, Director, *Joseph I. Liebman*, Attorney-in-Charge, and *John J. Mahon*, of New York, New York, attorneys for appellee.

[Oral argument on March 8, 1982 by *James S. O'Kelly* for appellant and *John J. Mahon* for appellee.]

Before MARKEY, *Chief Judge*, RICH, BALDWIN, MILLER, and NIES, *Associate Judges*.

MILLER, *Judge*.

[1] This appeal is from the judgment of the United States Court of International Trade, 1 CIT ——, 520 F. Supp. 273 (1981), holding that artificial suede imported from Japan was properly classified under item 355.25, Tariff Schedules of the United States ("TSUS") as nonwoven fabric of textile materials, instead of under appellant's claimed classifications, item 774.60, TSUS, as articles not specially provided for, of rubber or plastics, or item 359.60, TSUS, as textile fabrics, including laminated fabrics, not specially provided for. We affirm.

## BACKGROUND

The merchandise involved was manufactured in Japan by Toray Industries, Inc. and was entered on November 7, 1975, at the port of Wilmington, Delaware. The merchandise is known as "Ecsaine" or "Ultrasuede." It is appellant's position that, in accordance with *Definition* 9(f)(i) and *General interpretative rule* 10(f), TSUS,[1] the imported merchandise is not in chief value "of" textile materials, as required under item 355.25, TSUS,[2] but, rather, is in chief value "of" plastics, and is properly classifiable under item 774.60, TSUS.[3]

In support of this position, appellant introduced the testimony of Mr. Ijiri, an employee of the manufacturer of Ecsaine responsible for control of the production costs thereof. Through an interpreter, Mr. Ijiri testified that Ecsaine is produced by a process which includes the following steps:

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[1] These provisions read:

9. *Definitions.*—For the purposes of the schedules, unless the context otherwise requires—

* * * * * * *

(f) the terms "of", "wholly of", "almost wholly of", "in part of" and "containing", when used between the description of an article and a material (e.g., "furniture *of* wood", "woven fabrics, *wholly of* cotton", etc.), have the following meanings:

(i) "of" means that the article is wholly or in chief value of the named material;

* * * * * * *

10. *General interpretative rule.*—For the purposes of these schedules—

* * * * * * *

(f) an article is in chief value of a material if such material exceeds in value each other single component material of the article;

* * * * * * *

[2] The customs service classified the merchandise as:

Webs, wadding, batting, and nonwoven fabrics, including felts and bonded fabrics, and articles not specifically provided for of any one or combination of these products, all the foregoing, of textile materials, whether or not coated or filled:

* * * * * * *

| | | |
|---|---|---|
| 355.25 | Of manmade fibers | 12¢ per lb. +15% ad val. |

[3] Appellant principally argues that the proper classification is:

Articles not specially provided for, of rubber or plastics:

| | | |
|---|---|---|
| 774.60 | Other | 8.5% ad val. |

I. Very fine polyester fibers (0.1 denier) and polystyrene plastic are coextruded to form larger (3.5 denier) "bundles" (which appellant concedes are fibers) 50 mm in length comprising several polyester fibers encased in a polystyrene fiber. (Denier is the weight in grams of a filament 9000 meters long.) These composite fibers are carded and needle punched to form an entangled fiber sheet.

II. The entangled sheet is dipped in a plastic resin solution.

III. The polystyrene coating is removed from the polyester fibers by means of a solvent, leaving a sheet comprising plastic resin and polyester fibers.

IV. A polyurethane solution is made by mixing polyurethane, chemicals, and solvent.

V. The sheet of step III is impregnated with the polyurethane solution of step IV.

VI. The polyurethane solvent is recovered and the plastic resin is removed, leaving a sheet of polyester fiber and polyurethane plastic.

VII. The sheet is split horizontally and buffed to raise the nap.

VIII. The split sheet is dyed.

Mr. Ijiri also testified regarding the production costs associated with each step, broken down in terms of materials, overhead, and labor. These figures are confidential by order of the trial court.

*The Decision Below*

Regarding appellant's principal argument, that Ecsaine is in chief value of plastics and not of textile materials, the trial court held against appellant:

> We find that the costs of all the steps up to the joinder of the polyurethane with the fiber sheet, exclusive of the cost of the polyurethane, are attributable to the fiber component, and that these costs exceed the cost of the polyurethane. This is especially true since the cost breakdown provided by plaintiff for the polyurethane included the cost of chemicals and solvents, which were not identified in the testimony. We cannot accede to plaintiff's claim that the cost of the resin should be attributed to the plastics material since the resin was not identified by the witness, despite the fact that he was specifically asked what resin is used in the manufacture of the merchandise. In view of these considerations and of the fact that the witness did not possess personal knowledge of the costs of some of the components as compared with others, plaintiff has not proved that the cost of the plastics material exceeds that of the fiber component, or for that matter, that of any of the chemicals or solvents that are used in the manufacturing process. [Footnote omitted.]

1 CIT at ——, 520 F. Supp. at 277.

OPINION

*Issues*

The principal issue before us is whether appellant sustained its burden to overturn the government's presumptively correct classification. A threshold question is the weight to be accorded the testimony of appellant's sole witness.

[2] Contrary to the arguments of the parties, the standard for reviewing *factual* findings of the Court of International Trade is not whether they are "contrary to the weight of the evidence." Rather, as provided in 28 U.S.C. 2601(c), "Findings of fact shall not be set aside unless clearly erroneous and due regard shall be given to the opportunity of the Court of International Trade to judge the credibility of the witnesses." The government argues that the trial court found that the testimony of the witness lacked credibility and points to his failure to recall the cost of the bulk polyurethane and the cost of the fiber per kilogram from which the 1975 cost figures per meter offered by the witness were derived. With respect to that testimony, the Court of International Trade said:

> [I]t is not clear to this court that the cost of the plastics components submitted by plaintiff (plaintiff's exhibit No. 5) is substantiated by the testimony at trial. Mr. Ijiri testified that the polyurethane to which the fiber sheet was joined constituted approximately 12 to 14 percent of the polyurethane mixture in which the fiber sheet is dipped. The other 86 or 88 percent consists of an unidentified solvent and other unidentified chemicals. It is unclear whether the cost figures submitted by plaintiff reflect this percentage in the allocations for raw materials and chemicals made at the polyurethane/sheet joinder stage, and the witness testified that he could not recall the cost of polyurethane in 1975, the year in which the merchandise was imported, or the cost of the solvent. No other evidence was adduced with respect to the correctness of the figures that were submitted in plaintiff's exhibit No. 5.
>
> * * * * * * *
>
> Even if this court were to find that the merchandise is not a fabric for tariff schedule purposes, the presumptively correct classification by Customs should stand. The plaintiff is required to prove, in order to prevail, that the cost of the plastics exceeds that of any other component in the merchandise. The testimony of the witness, Mr. Ijiri, with respect to the costs of the various components was less than clear, even allowing for the difficulties of translating both questions and answers from the Japanese language * * *. [H]e was unfamiliar with or could not remember how the price of the fiber component of the "Ecsaine" was arrived at.

1 CIT at ——, 520 F. Supp at 274–75, 277.

[3] As pointed out above, appellant, before the Court of International Trade, relied on a single witness in an attempt to prove the

production costs of Ecsaine. The court held that plaintiff did not carry its burden of proof based on its finding that the weight of the testimony of the witness was insufficient to substantiate the cost figures set forth in plantiff's exhibit 5. Unlike courts of appeals, the trial judge has a unique opportunity to evaluate the testimony of a witness, and we are not persuaded that the trial court's finding was clearly erroneous.[4]

Because appellant has failed to sustain its burden to overturn the government's presumptively correct classification, the judgment of the Court of International Trade is *affirmed.*

[4] Because of our resolution of the threshold question, it is unnecessary to reach plaintiff's arguments regarding the trial court's allocation of the various costs and the claimed alternative classification since these arguments are dependent of Mr. Ijiri's testimony.

# United States Court of International Trade



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# Decisions of the United States Court of International Trade

(Slip Op. 82-26)

INDUSTRIAL FASTENERS GROUP, AMERICAN IMPORTERS ASSOCIATION, PLAINTIFF *v.* THE UNITED STATES, ET AL., DEFENDANTS

Court No. 80-7-01157

Before BOE, *Judge.*

*Opinion and Order*

[Plaintiff's motion for rehearing and vacation of judgment, denied.]

(Dated: April 19, 1982)

*Barnes, Richardson & Colburn; Andrew P. Vance* and *Michael A. Johnson,* for the plaintiff.

BOE, *Judge:* This action is now before the court on plaintiff's motion for a rehearing and vacation of its judgment entered herein on March 3, 1982, 2 CIT ——, Slip Op. 82-14, in which the court affirmed the final determination of the International Trade Administration, United States Department of Commerce (ITA), as redetermined in part upon the remand orders of this court, that the Government of India provided subsidies to exporters of certain industrial fasteners in the total amount of 17.71% of the f.o.b. value of the exported merchandise through three export programs. Plaintiff seeks a rehearing only with respect to that portion of the court's judgment affirming the ITA determination that a subsidy was paid to the exporters in the amount of 17.5% of the f.o.b. value of the exported merchandise through the Cash Compensatory System on Export program (CCS).

The reasoning of the court in finding that the ITA determination with respect to the CCS payments was supported by substantial evidence is fully set forth in the Opinion and Order of this court under date of October 29, 1981, 2 CIT ——, Slip Op. 81-99. The court therein found that the three-prong test utilized by the ITA in determining whether the export payments, purportedly operating as a rebate of indirect taxes paid but not otherwise rebated, are subsidies [1] was a reasonable interpretation of the requirements of the countervailing duty statutes.

The gravamen of plaintiff's argument in its motion for rehearing is substantially the same as the argument made at length in plaintiff's motion for judgment on the administrative record. The plaintiff in the instant motion again urges that in determining whether the Government of India had reasonably calculated and documented the actual indirect tax incidence borne by exported fasteners and has demonstrated a clear link between such tax incidence and the amount of the export payment, the ITA considered only tax data collected by the Government of India contemporaneously with the setting of the CCS rates and excluded from consideration tax data collected contemporaneously with the ITA investigation.[2] The plaintiff further urges in the memorandum in support of its motion that the administrative record demonstrated that the data supplied contemporaneously with the ITA investigation was part of an effort by the Government of India to review and reevaluate its

[1] (1) Whether the [export payment] operates for the purpose of rebating indirect taxes, (2) whether there is a clear link between eligibility for [export] payments and payment of indirect taxes, and (3) whether the government has reasonably calculated and documented the actual indirect tax incidence borne by exported fasteners and has demonstrated a clear link between such tax incidence and the amount of the [export payment]. Slip Op. 81-99 at 10.

[2] Plaintiff also argues that the Preliminary Determination by the ITA promulgated a "time frame" which had a chilling effect on the information supplied by the Government of India. Documents made part of the administrative record which relate to tax data collected contemporaneously with the ITA investigation and submitted by the Government of India after the notice of the Preliminary Determination was published make apparent the speciousness of this argument.

CCS rate. This argument is without merit. Notwithstanding any further investigation made by the Government of India during the course of the ITA investigation, the administrative record clearly and undisputedly reveals that the CCS rate compensated not only for indirect taxes paid but not otherwise rebated upon exports, but for other export handicaps suffered by Indian exporters as well. Slip Op. 81–99 at 4–5. The administrative record does not provide evidence of the extent to which the CCS rate is allocated to compensate for indirect taxes paid as opposed to other export handicaps.

The plaintiff having failed to present any matter not heretofore fully presented and argued by respective counsel and considered by this court in its prior opinions and judgment herein, the motion for rehearing and vacation of judgment, accordingly, is denied.

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(Slip Op. 82–27)

UNITED STATES STEEL CORPORATION, ET AL., PLAINTIFFS *v.* UNITED STATES AND UNITED STATES INTERNATIONAL TRADE COMMISSION, DEFENDANTS

Consolidated Court No. 82-3-00288

Before WATSON, *Judge.*

*Motion for Order Requiring Defendants To Continue Investigations*

[Denied.]

(Decided April 23, 1982)

*The Law Department of United States Steel Corporation (D. B. King, J. J. Mangan, C. D. Mallick* and *L. Ranney* on the brief) for plaintiff United States Steel Corporation.

*Michael H. Stein,* General Counsel and *Warren H. Maruyama* on the brief for defendant U.S. International Trade Commission.

*J. Paul McGrath,* Assistant Attorney General (*David M. Cohen,* Branch Director, Commercial Litigation Branch and *Sheila N. Ziff,* Commercial Litigation Branch, on the brief) for Department of Commerce.

WATSON, *Judge:* Plaintiff, United States Steel Corporation (U.S. Steel) brought this action under Section 516A(a)(1)(D) of the Tariff Act of 1930 (19 U.S.C. § 1516a(a)(1)(A)(iii)) to obtain judicial review of findings by the United States International Trade Commission (ITC) which had the effect of terminating 22 antidumping and countervailing duty investigations.[1] These were among 54 investi-

[1] See the following:
Hot-Rolled Carbon Plate from France—Inv. No. 731-TA-54 and Inv. No. 701-TA-88.
Hot-Rolled Carbon Plate from Italy—Inv. No. 731-TA-55 and Inv. No. 701-TA-90.
Netherlands—Inv. No. 701-TA-91.
Cold-Rolled Carbon Steel Sheet and Strip from Belgium—Inv. No. 731-TA-68 and Inv. No. 701-TA-102.
Cold-Rolled Carbon Steel Sheet and Strip from the United Kingdom—Inv. No. 731-TA-73 and Inv. No. 701-TA-108.

*Continued*

gations terminated when the ITC, in accordance with sections 703 and 733 of the Tariff Act of 1930 (19 U.S.C. §§ 1671b, 1673b), and within 45 days of the filing of the initiating petitions, found that there was no reasonable indication that a United States industry was being materially injured by the imports under investigation. (At the same time the ITC found a reasonable indication of injury in 38 other steel-related investigations and they were continued.)

U.S. Steel has now moved to have the 22 terminated investigations continued *pendente lite* by the International Trade Administration of the Department of Commerce (ITA) and the ITC. To that end, U.S. Steel requests either the issuance of an extraordinary writ under the All Writs Act, 28 U.S.C. § 1651, or injunctive relief. The Court sees no need for oral argument or further briefing and plaintiff's motions with respect to those matters are denied.

The Court finds no justification for the extraordinary relief requested and no ground for interfering, at this stage of the proceeding, with the statutory mandate that antidumping and countervailing duty investigations shall be terminated if the ITC determines, under 19 U.S.C. § 1671b or § 1673b that there is no reasonable indication that the imports being investigated are causing material injury to an industry in the United States.

A writ under the All Writs Act is inappropriate here; nor has there been the showing necessary to warrant injunctive relief.

As regards an extraordinary writ, there is no threat to the Court's jursidiction and no demonstration that the possibility of relief in this action is being eroded or precluded. Defendants correctly distinguish the use of the extraordinary writ power to prevent the destruction of the subject matter of the action as in *Federal Trade Commission* v. *Dean Foods Co.*, 384 U.S. 597 (1966) (writ used in antitrust action to prevent dismemberment of an acquired competitor), or in *Alberta Gas Chemicals, Inc.* v. *United States*, 85 Cust. Ct. 122, C.R.D. 80–13, 496 F. Supp. 1332 (1980) (writ used in challenge to antidumping duty to prevent government auction of import assertedly subject to the duty).

All we have here are assertions by the plaintiff that the investigations cannot be easily recommenced, that it is of critical importance to minimize any delay in obtaining relief and the further suggestion, that these terminated investigations must be rejoined to those investigations which were not terminated, so that each of the products involved can be evaluated in the aggregate. The first two assertions are without factual support and the third depends on legal propositions which are hardly elaborated, let alone established in the motion.

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Galvanized Sheet from Belgium—Inv. No. 731-TA-75 and Inv. No. 701-TA-110.
Galvanized Sheet from France—Inv. No. 731-TA-76 and Inv. No. 701-TA-111.
Galvanized Sheet from Italy—Inv. No. 731-TA-77 and Inv. No. 701-TA-112.
Galvanized Sheet from the Netherlands—Inv. No. 731-TA-79 and Inv. No. 701-TA-114.
Galvanized Sheet from United Kindgdom—Inv. No. 731-TA-80 and Inv. No. 701-TA-115.
Galvanized Sheet from West Germany—Inv. No. 731-TA-81 and Inv. No. 701-TA-116.

If plaintiff is seeking an aggregation of separate investigations, then it must be relying on some statutory duty of the ITC and ITA to deal with the products under investigation in a more unified manner. But such a duty is not established by the general observation that these statutes are directed to the injurious effect of a "class or kind of merchandise" and the assertion that all the plate and cold rolled sheet imports at issue are fungible with like products still under investigation. These statutes have detailed provisions dealing with the conduct of individual investigations and in the absence of proof of a specific violation of those provisions, judicial intervention is unwarranted.

This is particularly the case when apparent conformity to statutory procedures resulted in the termination of the investigations at issue in this action.

In short, plaintiff has not shown to the satisfaction of the Court that conditions exist here which prevent the Court from providing appropriate relief at the conclusion of its judicial review.

Finally, no grounds for injunctive relief have been supplied. The Court has not been persuaded that the termination of the investigations threatens plaintiff with irreparable injury; that plaintiff has a substantial likelihood of success on the merits; or that considerations of the relative harm to the parties and the evaluation of the public interest operate to favor plaintiff.

For these reasons, it is Ordered that plaintiff's motion, be and the same hereby is, Denied.

Dated: April 23, 1982, New York, NY.

JAMES L. WATSON,
*Judge.*

# Decisions of the United States Court of International Trade

## *Abstracts*

## *Abstracted Protest Decisions*

DEPARTMENT OF THE TREASURY, *April 26, 1982.*

The following abstracts of decisions of the United States Court of International Trade at New York are published for the information and guidance of officers of the customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to customs officials in easily locating cases and tracing important facts.

WILLIAM VON RAAB,
*Acting Commissioner of Customs.*

| DECISION NUMBER | JUDGE & DATE OF DECISION | PLAINTIFF | COURT NO. | ASSESSED | HELD | BASIS | PORT OF ENTRY AND MERCHANDISE |
|---|---|---|---|---|---|---|---|
| | | | | Par. or Item No. and Rate | Par. or Item No. and Rate | | |
| P82/47 | Re, C.J. April 19, 1982 | Bucilla | 78-8-01506 | Item 307.64 30¢ per lb. + 15% | Item 307.60 Duty free | Judgment on the pleadings | Buffalo White wool yarn in entry Nos. 263290 and 268293 |
| P82/48 | Newman, J. April 20, 1982 | Sandvik Steel, Inc. | 72-5-01134, etc. | Item 657.20 13%, 11% or 9.5 | Item 609.84 6.5% (merchandise marked "A") 7.5% (merchandise marked "B") | Sandvik Steel, Inc. v. U.S. (C.D. 4609) | New York "Shoe Knife Strip Steel", "Sandvik Shoe Die Steel", etc. |
| P82/49 | Re, C.J. April 21, 1982 | Terumo America, Inc. | 81-12-01662 | Item 711.34 42.5% or 39.7% | Item 548.03 14.9% | Terumo-America, Inc. v. U.S. (Slip Op. 81-89, Sept. 30, 1981) | Los Angeles Glass rods and stems |

# Decisions of the United States Court of International Trade

## *Abstracts*

## *Abstracted Reappraisement Decision*

| DECISION NUMBER | JUDGE & DATE OF DECISION | PLAINTIFF | COURT NO. | BASIS OF VALUATION | HELD VALUE | BASIS | PORT OF ENTRY AND MERCHANDISE |
|---|---|---|---|---|---|---|---|
| R82/263 | Re, C.J. April 19, 1982 | American Honda Motor Company | 74-6-01429 | Export value | Unit values shown on schedule of cases attached to decision and judgment | Agreed statement of facts | Los Angeles Motorcycles |
| R82/264 | Re, C.J. April 19, 1982 | American Honda Motor Company | 75-10-02528 | Export value | Unit values shown on schedule of cases attached to decision and judgment | Agreed statement of facts | Los Angeles Motorcycles |
| R82/265 | Re, C.J. April 19, 1982 | Frank P. Dow, Inc., a/c Garden Way Living Center | 79-11-01650 | Export value | Invoiced unit prices, net, packed | Agreed statement of facts | Portland, Oreg., Reginald 101 cast iron wood burning stoves, "Senotherm" and "Enamel" |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| R82/266 | Re, C.J. April 19, 1982 | Frederick Wholesale Corp. | 79-5-00833 | Export value | Invoiced values of $4.50 and $5.20 for style Nos. 5623 and 5624, respectively | Agreed statement of facts | New York<br>Girls woven nylon ski jackets |
| R82/267 | Re, C.J. April 19, 1982 | Mitsubishi International Corporation | 75-5-01245 | American selling price | Appraised values less 23%, per pair | Agreed statement of facts | Cleveland<br>Footwear |
| R82/268 | Re, C.J. April 19, 1982 | Perkin Elmer Corporation | 78-11-01976 | Export value | Invoiced unit prices, net, packed; said prices represent the exporter's list prices less 35% discount | Agreed statement of facts | New York<br>Electrical instruments and accessories |
| R82/269 | Rao, J. April 19, 1982 | Gotham Knitting Mills, d/o Apparel Industries | 80-4-00713 | Export value | Invoiced unit price without addition of quota charges of $4 per dozen garments | Agreed statement of facts | New York<br>Wearing apparel |
| R82/270 | Re, C.J. April 20, 1982 | Export Pacific | R60/68 | Export value | Net appraised value less 7¼% thereof, net packed | U.S. v. Getz Bros. & Co. et al. (C.A.D. 927) | San Diego<br>Plywood |
| R82/271 | Re, C.J. April 20, 1982 | Heidner & Co. et al. | R59/711, etc. | Export value | Net appraised value less 7¼% thereof, net packed | U.S. v. Getz Bros. & Co. et al. (C.A.D. 927) | Tampa<br>Plywood |
| R82/272 | Re, C.J. April 20, 1982 | Holly Stores Inc. | 74-2-00330, etc. | Export value | Appraised values shown on entry papers less additions included in appraised values to reflect currency revaluation | C.B.S. Imports Corp. v. U.S. (C.D. 4739) | Los Angeles<br>Wearing apparel, etc. |
| R82/273 | Re, C.J. April 20, 1982 | Holly Stores Inc. | 75-12-03228 | Export value | Appraised values shown on entry papers less additions included in appraised values to reflect currency revaluation | C.B.S. Imports Corp. v. U.S. (C.D. 4739) | Los Angeles<br>Wearing apparel, etc. |
| R82/274 | Re, C.J. April 20, 1982 | Holly Stores Inc. | 76-4-00966 | Export value | Appraised values shown on entry papers less additions included in appraised values to reflect currency revaluation | C.B.S. Imports Corp. v. U.S. (C.D. 4739) | Los Angeles<br>Wearing apparel, etc. |

| DECISION NUMBER | JUDGE & DATE OF DECISION | PLAINTIFF | COURT NO. | BASIS OF VALUATION | HELD VALUE | BASIS | PORT OF ENTRY AND MERCHANDISE |
|---|---|---|---|---|---|---|---|
| R82/275 | Re, C.J. April 20, 1982 | Kanematsu Gosho (U.S.A.) Inc. | 75-1-00207 | Export value | Appraised values shown on entry papers less additions included in appraised values to reflect currency revaluation | C.B.S. Imports Corp. v. U.S. (C.D. 4739) | Baltimore Wearing apparel, etc. |
| R82/276 | Re, C.J. April 20, 1982 | Marubeni America Corp. | 74-11-03213 | Export value | Unit values found by appraising customs official, less ocean freight and marine insurance, and without additions to said values for currency fluctuation | C.B.S. Imports Corp. v. U.S. (C.D. 4739) | New York; Chicago Miscellaneous articles |
| R82/277 | Re, C.J. April 20, 1982 | Paramount Apprarel Ltd. | 78-10-01772 | Export value | Appraised values shown on entry papers less additions included in appraised value to reflect currency revaluation | C.B.S. Imports Corp. v. U.S. (C.D. 4739) | New York Wearing apparel, etc. |
| R82/278 | Re, C.J. April 20, 1982 | Regal Accessories Inc. | 77-5-00715 | Export value | Appraised values shown on entry papers less additions included in appraised values to reflect currency revaluation | C.B.S. Imports Corp. v. U.S. (C.D. 4739) | New York Wearing apparel, etc. |
| R82/279 | Ford, J. April 20, 1982 | Airesearch Manufacturing Co. | 75-1-00083 | Export value | Invoiced unit prices less nondutiable charges included therein | J.E. Bernard & Co. v. U.S. (C.D. 4850) | Los Angeles Parts of aircraft environmental control systems |
| R82/280 | Ford, J. April 20, 1982 | J.E. Bernard & Co., Inc., a/c Airesearch Mfg. | 75-2-00376 | Export value | Invoiced unit prices less nondutiable charges included therein | J.E. Bernard & Co., Inc. v. U.S. (C.D. 4850) | Chicago Parts of aircraft environmental control systems |
| R82/281 | Ford, J. April 20, 1982 | E.C. McAfee, a/c Airesearch Manufacturing Co. | 74-12-03508 | Export value | Invoiced unit prices less nondutiable charges included therein | J.E. Bernard & Co., Inc. v. U.S. (C.D. 4850) | Detroit Parts of aircraft environmental control systems |

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|---|---|---|---|---|---|---|---|
| R82/282 | Watson, J. April 20, 1982 | Bushnell International, Inc. | R60/7139, etc. | Export value | F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values | Agreed statement of facts | Los Angeles Binoculars |
| R82/283 | Watson, J. April 20, 1982 | Bushnell International, Inc. | R60/9759, etc. | Export value | F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values | Agreed statement of facts | Los Angeles Binoculars |
| R82/284 | Watson, J. April 20, 1982 | Hayim & Co. | R59/603, etc. | Export value | F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values | Agreed statement of facts | New York Rugs |
| R82/285 | Re, C.J. April 21, 1982 | Chori America, Inc. | 73-11-03249 | Export value | Appaised values shown on entry papers less additions included in appraised values to reflect currency revaluation | C.B.S. Imports Corp. v. U.S. (C.D. 4739) | New York; Los Angeles Miscellaneous articles |
| R82/286 | Watson, J. April 21, 1982 | Hayim & Co. | R59/5619, etc. | Export value | F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values | Agreed statement of facts | Baltimore Rugs |
| R82/287 | Watson, J. April 21, 1982 | Hayim & Co. | R59/10494, etc. | Export value | F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values | Agreed statement of facts | New York Rugs and mats |
| R82/288 | Watson, J. April 21, 1982 | Hayim & Co. | R60/19769, etc. | Export value | F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values | Agreed statement of facts | New York Rugs and mats |

| DECISION NUMBER | JUDGE & DATE OF DECISION | PLAINTIFF | COURT NO. | BASIS OF VALUATION | HELD VALUE | BASIS | PORT OF ENTRY AND MERCHANDISE |
|---|---|---|---|---|---|---|---|
| R82/289 | Watson, J. April 21, 1982 | Kanematsu New York Inc. | R61/22769, etc. | Export value | F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values | Agreed statement of facts | New York Sewing machine heads |
| R82/290 | Watson, J. April 21, 1982 | Marubeni Iida (America) Inc. | 286864-A, etc. | Export value | F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised value | Agreed statement of facts | New York Damask sets |
| R82/291 | Watson, J. April 21, 1982 | New York Merchandise Co., Inc. | R61/24030 | Export value | F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values | Agreed statement of facts | San Diego Binoculars |
| R82/292 | Watson, J. April 21, 1982 | Henry Pollak Inc. | R58/4820, etc. | Export value | F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised value | Agreed statement of facts | New York Sweaters |
| R82/293 | Watson, J. April 21, 1982 | Henry Pollak Inc. | R59/13393, etc. | Export value | F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised value | Agreed statement of facts | New York Sweaters |
| R82/294 | Watson, J. April 21, 1982 | Suncoast Merchandise Corporation | R59/17231, etc. | Export value | F.o.b. unit invoice prices plus 20% of difference between f.o.b. unit invoice prices and appraised values | Agreed statement of facts | Los Angeles Flatware |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| R82/295 | Maletz, J. April 21, 1982 | Mitsubishi International Corp. | R69/5452, etc. | Export value | Invoiced f.o.b. prices | International Seaway Trading Corp. v. U.S. (C.D. 4773) wherein merchandise was held classifiable under item 700.70, TSUS (merchandise marked "A")<br>Agreed statement of facts (merchandise marked "B") | Savannah Footwear |
| R82/296 | Maletz, J. April 21, 1982 | Mitsubishi International Corp. | R69/5588, etc. | Export value | Invoiced f.o.b. prices | International Seaway Trading Corp. v. U.S. (C.D. 4773) wherein merchandise was held classifiable under item 700.70, TSUS (merchandise marked "A")<br>Agreed statement of facts (merchandise marked "B") | Philadelphia Footwear |
| R82/297 | Maletz, J. April 21, 1982 | Mitsubishi International Corp. | R69/7713, etc. | Export value | Invoiced f.o.b. prices | International Seaway Trading Corp. v. U.S. (C.D. 4773) wherein merchandise was held classifiable under item 700.70, TSUS (merchandise marked "A")<br>Agreed statement of facts (merchandise marked "B") | Boston Footwear |
| R82/298 | Maletz, J. April 21, 1982 | Mitsubishi International Corp. | R69/9956, etc. | Export value | Invoiced f.o.b. prices | International Seaway Trading Corp. v. U.S. (C.D. 4773) wherein merchandise was held classifiable under item 700.70, TSUS (merchandise marked "A")<br>Agreed statement of facts (merchandise marked "B") | Houston Footwear |

| DECISION NUMBER | JUDGE & DATE OF DECISION | PLAINTIFF | COURT NO. | BASIS OF VALUATION | HELD VALUE | BASIS | PORT OF ENTRY AND MERCHANDISE |
|---|---|---|---|---|---|---|---|
| R82/299 | Maletz, J. April 21, 1982 | Mitsubishi International Corp. | R69/11954, etc. | Export value | Invoiced f.o.b. prices | International Seaway Trading Corp. v. U.S. (C.D. 4773) wherein merchandise was held classifiable under item 700.70, TSUS (merchandise marked "A")<br>Agreed statement of facts (merchandise marked "B") | Baltimore Footwear |
| R82/300 | Maletz, J. April 21, 1982 | Mitsubishi International Corp. | R70/902, etc. | Export value | Invoiced f.o.b. prices | International Seaway Trading Corp. v. U.S. (C.D. 4773) wherein merchandise was held classifiable under item 700.70, TSUS (merchandise marked "A")<br>Agreed statement of facts (merchandise marked "B") | San Juan Footwear |
| R82/301 | Boe, J. April 21, 1982 | Mitsubishi International Corp. | 79-7-01146, etc. | American selling price | Appraised values less 23%, per pair | Agreed statement of facts | Philadelphia, Footwear |

# Petition for Rehearing Before the U.S. Court of Customs and Patent Appeals

Denied April 15, 1982

APPEAL NO. 81-29.—*Nippon Kogaku (USA), Inc.* v. *United States.*—INSTRUMENTS—ZOOM PHOTO SLIP-LAMP MICROSCOPE MAIN UNIT—SUMMARY JUDGMENT—TSUS—Slip Op 81-50 affirmed February 25, 1982. Petition filed by appellant.

# International Trade Commission Notices

*Investigations by the U.S. International Trade Commission*

DEPARTMENT OF THE TREASURY, *May 5, 1982.*

The appended notices relating to investigations by the U.S. International Trade Commission are published for the information of Customs officers and others concerned.

WILLIAM VON RAAB,
*Commissioner of Customs.*

Investigation No. 701-TA-154 (Preliminary)

HOT-ROLLED STAINLESS STEEL BAR, COLD-FORMED STAINLESS STEEL BAR, AND STAINLESS STEEL WIRE ROD FROM SPAIN

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary countervailing duty investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of investigation No. 701-TA-154 (Preliminary) to determine, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a)), whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Spain of hot-rolled stainless steel bar, provided for in item 606.9005 of the Tariff Schedules of the United States Annotated (TSUSA), cold-formed stainless steel bar, provided for in TSUSA item 606.9010, and stainless steel wire rod, provided for in TSUSA items 607.2600 and 607.4300 upon which bounties and grants are alleged to be paid.

EFFECTIVE DATE: April 26, 1982.

FOR FURTHER INFORMATION CONTACT:

Mr. Daniel F. Leahy, Jr., Office of Investigations, U.S. International Trade Commission; telephone 202-523-1369.

SUPPLEMENTARY INFORMATION:

*Background.*—On February 17, 1982, a petition was filed with the Department of Commerce by counsel for Al Tech Specialty Steel Corporation, Armco Stainless Steel Division, Carpenter Technology Corporation, Colt Industries, Inc. (Crucible Materials Group), Cyclops Corporation, Guterl Special Steel Corporation, Joslyn Stainless Steels, and Republic Steel Corporation alleging that producers, manufacturers, or exporters in Spain of stainless steel bar and wire rod receive, directly or indirectly, bounties or grants within the meaning of section 303 of the Tariff Act of 1930 (the Act). As Spain was not at that time a "country under the Agreement" within the meaning of section 701(b) of the Act, there was no requirement for the petition to be filed pursuant to section 702(b)(2) and no requirement for the Commission to conduct a preliminary material injury investigation pursuant to section 703(a).

On April 14, 1982, however, the United States Trade Representative announced that Spain had become a "country under the Agreement" (47 F.R. 16697). On April 26, 1982, Commerce notified the Commission that it had terminated its investigation under section 303, and that, in accordance with section 702 of the Act, it was commencing a new countervailing duty investigation. Accordingly, the Commission is instituting its investigation.

The Commission must make its determination in the investigation within 45 days after the date on which it receives notice by the administering authority of an investigation commenced under section 702(b) of the Act, or by June 10, 1982 (19 CFR § 207.17 (1981)). The investigation will be subject to the provisions of part 207 of the Commission's Rules of Practice and Procedure (19 CFR § 207 (1981), as amended by 47 F.R. 6190 (Feb. 10, 1982)), and particularly subpart B thereof.

*Written submissions.*—Any person may submit to the Commission on or before May 24, 1982, a written statement of information pertinent to the subject matter of this investigation. A signed original and fourteen copies of such statements must be submitted. In the event that confidential treatment of the document is requested under § 201.6, at least one additional copy shall be filed in which the confidential business information shall have been deleted and which shall have been marked "nonconfidential" or "public inspection".

Any business information which a submitter desires the Commission to treat as confidential shall be submitted in conformance with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR § 201.6 (1981)). Each sheet of information for which confidential treatment is desired must be clearly marked at the top "Confidential Business Data".

All written submissions, except for confidential business data, will be available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

*Conference.*—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 10:00 a.m., e.d.t., on May 19, 1982, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the investigator for the investigation, Mr. Daniel Leahy, telephone 202–523–1369, not later than May 14, 1982, to arrange for their appearance. Parties in support of the imposition of countervailing duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

For further information concerning the conduct of the investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR § 207 (1981), as amended by 47 F.R. 6190 (Feb. 10, 1982)), and part 201, subparts A through E (19 CFR § 201 (1981), as amended by 47 F.R. 6188 (Feb. 10, 1982)). Further information concerning the conduct of the conference will be provided by Mr. Leahy.

This notice is published pursuant to section 207.12 of the Commission's Rules of Practice and Procedure (19 CFR § 207.12 (1981)).

By order of the Commission.

Issued: April 29, 1982.

KENNETH R. MASON,
*Secretary.*

*Investigations Nos. 701-TA-155 Through 163 (Preliminary)*

CERTAIN STEEL PRODUCTS FROM SPAIN

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary countervailing duty investigations and the scheduling of a conference to be held in connection with the investigations.

EFFECTIVE DATE: April 26, 1982.

SUMMARY: On April 26, 1982, the U.S. Department of Commerce notified the United States International Trade Commission that, in accordance with section 702 of the Tariff Act 1930 (19 U.S.C. § 1671a), it was commencing investigations to determine whether producers, manufacturers, or exporters in Spain of certain steel products receive benefits that qualify as subsidies within the meaning of the Act. Accordingly, effective April 26, 1982, the Commission, pursuant to section 703(a) of the Act (19 U.S.C. § 1671b(a)), instituted preliminary countervailing duty investigations Nos. 701-TA-155 through 163 (Preliminary) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Spain of the merchandise which is the subject of the investigations by the Department of Commerce. The products covered in these investigations are as follows: Hot-rolled carbon steel plate, provided for in items 607.6615, 607.9400, 608.0710, and 608.1100 of the Tariff Schedules of the United States Annotated (1982) (TSUSA); hot-rolled carbon steel sheet, provided for in TSUSA items 607.6610, 607.6700, 607.8320, 607.8342, and 607.9400; cold-rolled carbon steel sheet, provided for in TSUSA items 607.8320 and 607.8344; galvanized carbon steel sheet, provided for in TSUSA items 608.0730 and 608.1300; carbon steel angles, shapes, and sections, provided for in TSUSA items 609.8005, 609.8015, 609.8035, 609.8041, and 609.8045; hot-rolled carbon steel bar, provided for in TSUSA items 606.8310, 606.8330, and 606.8350; hot-rolled alloy steel bar, provided for in TSUSA item 606.9700; cold-formed carbon steel bar, provided for in TSUSA items 606.8805 and 606.8815; and cold-formed alloy steel bar, provided for in TSUSA item 606.9900.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eninger, Office of Investigations, U.S. International Trade Commission; telephone 202-523-0312.

SUPPLEMENTARY INFORMATION:

*Background.*—On January 11, 1982, petitions were filed with the Department of Commerce by the United States Steel Corp. and by counsel for Republic Steel Corp., Inland Steel Co., Jones & Laughlin Steel, Inc., National Steel Corp., and Cyclops Corp. alleging that producers, manufacturers, or exporters in Spain of certain steel products receive bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. § 1303). As Spain was not at that time a "country under the Agreement" within the meaning of section 701(b) of the Act (19 U.S.C. § 1671(b)), there was no requirement for the petitions to be filed with the Commission pursuant to section 702(b)(2) and no requirement for the Commission to conduct preliminary injury investigations pursuant to section 703(a).

On April 14, 1982, however, the United States Trade Representative announced that Spain had become a "country under the Agreement" (47 F.R. 16697). Accordingly, Commerce terminated its investigations under section 303 and initiated investigations under section 702. The Commission must make its determinations in these investigations within 45 days after the date on which it received notification by the Department of Commerce of its action, or by June 10, 1982 (19 CFR § 207.17). The investigations will be subject to the provisions of part 207 of the Commission's Rules of Practice and Procedure (19 CFR § 207, 44 F.R. 76457), and particularly subpart B thereof.

*Written submissions.*—Any person may submit to the Commission a written statement of information pertinent to the subject of these investigations. A signed original and fourteen (14) true copies of each submission must be filed at the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, on or before May 28, 1982. All written submissions except for confidential business data will be available for public inspection.

Any business information for which confidential treatment is desired shall be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR § 201.6).

*Conference.*—The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 10:00 a.m., e.d.t., on May 24, 1982, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the investigator for the investigations, Mr. Robert Eninger, telephone 202–523–0312, not later than May 17, 1982, to arrange for their appearance. It is anticipated that parties in support of the imposition of countervailing duties in the investigations and parties in opposition

to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

*Record.*—The records of Commission investigations Nos. 701-TA-86 through 144 (Preliminary), 701-TA-146 (Preliminary), 701-TA-147 (Preliminary), and 731-TA-53 through 86 (Preliminary), Certain Steel Products from Belgium, Brazil, France, Italy, Luxembourg, the Netherlands, Romania, the United Kingdom, and West Germany, will be incorporated in the records of investigations Nos. 701-TA-155 through 163 (Preliminary).

For further information concerning the conduct of the investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR § 207), and part 201, subparts A through E (19 CFR § 201). Further information concerning the conduct of the conference will be provided by Mr. Eninger.

This notice is published pursuant to section 207.12 of the Commission's Rules of Practice and Procedure (19 CFR § 207.12).

By order of the Commission.

Issued: April 29, 1982.

KENNETH R. MASON,
*Secretary.*

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*Investigation No. 731-TA-92 (Preliminary)*

STAINLESS STEEL SHEET AND STRIP FROM WEST GERMANY

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of investigation No. 731-TA-92 (Preliminary) to determine, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)), whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from West Germany of stainless steel sheet, provided for in items 607.7610, 607.9010, and 607.9020 of the Tariff Schedules of the United States Annotated (TSUSA), and stainless steel strip, provided for in TSUSA items 608.4300 and 608.5700 which are alleged to be sold in the United States at less than fair value.

EFFECTIVE DATE: April 26, 1982.

FOR FURTHER INFORMATION CONTACT:
Mr. Daniel F. Leahy, Jr., Office of Investigations, U.S. International Trade Commission; telephone 202-523-1369.

SUPPLEMENTARY INFORMATION:

*Background.*—This investigation is being instituted following receipt of a petition filed by members of the Tool and Stainless Steel Industry Committee and the United Steelworkers of America. The Commission must make its determination in the investigation within 45 days after the date of receipt of petition, or by June 10, 1982 (19 CFR § 207.17 (1981)). The investigation will be subject to the provisions of part 207 of the Commission's Rules of Practice and Procedure (19 CFR § 207 (1981), as amended by 47 F.R. 6190 (Feb. 10, 1982)), and particularly subpart B thereof.

*Written submissions.*—Any person may submit to the Commission on or before May 20, 1982, a written statement of information pertinent to the subject matter of this investigation. A signed original and fourteen copies of such statements must be submitted (19 CFR § 201.8 (1981), as amended by 47 F.R. 6188 (Feb. 10, 1982)).

Any business information which a submitter desires the Commission to treat as confidiential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR § 201.6). All written submissions, except for confidential business data will be available for public inspection.

*Conference.*—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 10:00 a.m., e.d.t., on May 17, 1982, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the investigator for the investigation, Mr. Daniel Leahy, telephone 202-523-1369, not later than May 12, 1982, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make on oral presentation at the conference.

For further information concerning the conduct of the investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR § 207, as amended by 47 F.R. 6188 (Feb. 10, 1982)), and part 201, subparts A through E (19 CFR § 201, as amended by 47 F.R. 6188 (Feb. 10, 1982)). Further information concerning the conduct of the conference will be provided by Mr. Leahy.

This notice is published pursuant to section 207.12 of the Commission's Rules of Practice and Procedure (19 CFR § 207.12 (1981)).

By order of the Commission.

Issued: April 29, 1982.

KENNETH R. MASON,
*Secretary.*

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| In the Matter of CERTAIN MOLDED-IN SANDWICH PANEL INSERTS AND METHODS FOR THEIR INSTALLATION | Investigation No. 337-TA-99 |

*Notice of Issuance of Exclusion Order and Cease and Desist Orders*

AGENCY: U.S. International Trade Commission.

ACTION: Issuance of exclusion order and cease and desist orders.

SUPPLEMENTARY INFORMATION: On April 9, 1982, the Commission issued a general exclusion order and four cease and desist orders in the above-captioned investigation. The Commission ordered that molded-in sandwich panel inserts that infringe U.S. Letters Patent 3,182,015 be excluded from entry into the United States and that respondents The Young Engineers, Inc., Hitco Corporation, Weber Aircraft Division of Kidde, Inc., and Aerospace Division of UOP, Inc., cease and desist from certain activities that infringe U.S. Letters Patents Nos. 3,271,498 or 3,392,225 where such activities involve imported sandwich panel inserts.

Notice of this investigation was published in the Federal Register on April 29, 1981 (46 F.R. 24034).

The Commission Action and Order, the Commission opinion in support thereof, and all other nonconfidential documents on the record of the investigation are available for public inspection during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 161, Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Clarease E. Mitchell, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-3395.

By order of the Commission.

Issued: April 29, 1982.

KENNETH R. MASON,
*Secretary.*

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| In the Matter of CERTAIN SNEAKERS WITH FABRIC UPPERS AND RUBBER SOLES | Investigation No. 337-TA-118 |

*Notice of Amendment of Notice of Investigation To Add Respondent*

AGENCY: U.S. International Trade Commission.

ACTION: Amendment of notice of investigation to add one new respondent pursuant to section 210.22(a) of the Commission's Rules of Practice and Procedure (19 CFR § 210.22(a)).

SUMMARY: On April 27, 1982, the Commission granted in part a motion (Motion No. 118-2) to amend the notice of investigation in this investigation to add Genesco, Inc., as an additional respondent.

SUPPLEMENTARY INFORMATION: On March 23, 1982, complainant Van Doren Rubber Co., Inc., moved (Motion No. 118-2) to amend the complaint and the notice of investigation to add as a new respondent Genesco, Inc. Genesco is alleged by complainant to be engaged in unfair competition, common law trademark infringement, false designation of origin, and passing off with respect to the sneakers in controversy. On March 31, 1982, the administrative law judge (ALJ) issued a recommended determination that the motion be granted (Order No. 5) insofar as it requests amendment of the notice of investigation. After consideration of Motion No. 118-2 and the ALJ's recommended determination, the Commission determined to amend its notice of investigation to add Genesco, Inc., Genesco Park, Nashville, Tennessee 37202, as respondent with regard to the unfair competition and common-law trademark infringement allegations.

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Jeffrey S. Neeley, Esq., Office of the General Counsel, telephone 202-523-0079.

By order of the Commission.

Issued: April 27, 1982.

KENNETH R. MASON,
*Secretary.*

*Notice of Investigation*

(332-141)

STUDY OF TRANSPORTATION COSTS IN U.S. FOREIGN TRADE

AGENCY: United States International Trade Commission.

ACTION: In accordance with the provisions of section 332 of the Tariff Act of 1930 (19 U.S.C. 1332), the Commission has instituted investigation No. 332-141 for the purpose of analyzing how transportation costs, as a hindrance to trade, have changed in recent years. In conducting this investigation, the Commission will ask what industries have been most affected by changes in transportation costs, and it will examine the reasons for these changes. The Commission will also compare the changes in the cost of international transportation to changes in the cost of domestic transportation.

EFFECTIVE DATE: April 15, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Henry McFarland, Research Division, U.S. International Trade Commission, Washington, D.C. 20436 (Phone 202-523-0075).

WRITTEN SUBMISSIONS: Since there will be no public hearing scheduled for this study, written submissions from interested parties are invited concerning any phase of the study. Commercial or financial information which a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be assured of consideration by the Commission in this study, written statements should be submitted at the earliest practicable date, but no later than September 15, 1982. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

By order of the Commission.

Issued: April 23, 1982.

KENNETH R. MASON,
*Secretary.*

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| In the Matter of<br>CERTAIN SILICA-COATED LEAD CHROMATE PIGMENTS | Investigation No. 337-TA-120 |

*Order*

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the Federal Register.

Issued: April 20, 1982.

DONALD K. DUVALL,
*Chief Administrative Law Judge.*

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